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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,005	04/26/2001	Scott K. Middelstadt	DD-023-1-US-01	8413

7590 02/26/2003

H.B. Fuller Company  
Patent Department  
1200 Willow Lake Blvd.  
P.O. Box 64683  
St. Paul, MN 55164-0683

EXAMINER
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GRAY, LINDA LAMEY

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 02/26/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/843,005

Applicant(s)

MIDDELSTADT ET AL.

Examiner

Linda L Gray

Art Unit

1734

-- Th MAILING DATE of this communication appears on the cov r sheet with the correspond nc address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12-19-01, 11-22-02, 1-23-03, and 4-26-01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 13-18 and 24-54 is/are pending in the application.
- 4a) Of the above claim(s) 24-54 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

**Amendment**

**1.** This is a second non-final Office action which considers the amendment filed 1-23-03 which was not present in the application when the Office action of 2-5-03 was completed.

**Election/Restrictions**

**2.** Newly submitted **claims 24-42** and **43-54** directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the limitations in claims 24-42 are directed to a dispenser, classified in class 156, subclass 510 (see Office action of 9-9-02); claims 43-54 are directed to a method of feeding a web material onto a substrate, classified in class 156/256.

**3.** The elected claims and claims 43-54 are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand or (2) the apparatus as claimed can be used to practice another and materially different process (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another materially different apparatus such as one not requiring a feed roll. Claims 24-42 are restricted from the elected claims as shown in the Office action of 9-9-02.

**4.** Since Applicants have elected claims 13-18 in the response filed 11-22-02 before the amendment of 1-23-03 adding claims 24-54 was filed, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 24-54 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

**Specification**

**5.** The disclosure is objected to because of the following informality: -- I claim-- should be inserted before the claims. Specifically, MPEP § 608.01(m) recites "While there is no set statutory form for claims, the present Office practice is to insist that each claim must be the object of a sentence starting with "I (or we) claim", "The invention claimed is", or the equivalent.",. Appropriate correction is required.

**Claim Objections**

**6. Claims 14-17** are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claims, amend the claim to place the claims in proper dependent form, or rewrite the claims in independent form.

**Claims 14-17** are directed to an applicator being part of the dispenser in claims 1-12 and 21-23, non-elected.

**Claim Rejections - 35 USC § 112**

**7.** The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**8. Claims 13-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.**

**Claim 15** is indefinite because such indicates that the vacuum roll with the rotary knife places the cut length of tape on a substrate; however, in the specification indicates an applicator which affords such placement. The preamble of **claim 13** has the same indication.

**Claim 18** is indefinite because it is unclear if the motor controllers on line 2 are actually part of the motor controller means in claim 13. Claim 18 indicates the motor controllers on line 2 to be part of the drive for the vacuum roller, however. Also, it is unclear in that the motor controller for the feed roll drive is claimed as being part of the drive for the vacuum roll.

**Claim 18**, line 3, "the feed roll drive" lacks antecedent basis.

**Claim Rejections - 35 USC § 103**

**9.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

**Art Unit 1734**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**10. Claims 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helm (US 3,957,570) in view of Doderer-Winkler (US 5,429,576).**

**Claim 13**, Helm teaches a tape feed assembly including feed roll 18 for advancing web 16 from supply 14 thereof along a predetermined path at a first speed, pressure roller 18a for holding web 16 in engagement with roll 18, vacuum roll 24' with anvil insert 26' for accepting web 16 from roll 18, a driver for roll 24' to provide a predetermined peripheral speed thereof different from the first speed for advancing web 16 toward applicator 29' in predetermined lengths 10 (c 2, L 28 to c 4, L 9), knife 27' having a blade mean engagable with roll 24' for cutting web 16 against roll 24', and a motor controller means including items D and 54 for changing the speed of web 16 and roll 24' to adjust the length of web 16 passing roll 24' before being cut by knife 27' (c 5, L 46-46, and c 6, L 10-18).

*Helm does not teach knife 27 to be a rotary knife driven at the same speed as roll 24'.*

Doderer-Winkler teaches rotary knife 70 having blade means 72 engagable with vacuum roll 68 for cutting a web against roll 68 (c 5, L 20, to c 6, L 29).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Helm that knife 27 be a rotary knife driven at the same speed as roll 24' because Doderer-Winkler teaches such to be convention in the art and it is obvious to replace one cutter with another art recognized alternative cutter.

In Helm the tape feed assembly feeds a predetermined length of web 16 to substrate 12 for deposition.

**Art Unit 1734**

**Claims 14-17** are directed to an applicator being part of the dispenser in claims 1-12 and 21-23, non-elected. In **claim 14**, the roll 24' has a peripheral speed different from the first speed.

**Claim 18**, *Helm does not teach that the driver for roll 24' includes a line speed encoder, a programmable logic controller, and a motor.*

However, such a driver is convention because such allows one accurate speed control and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Helm that the driver for roll 24' include a line speed encoder, a programmable logic controller, and a motor.

**Response to Papers Filed**

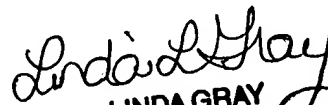
**11.** The declaration filed 12-19-01 has been entered.

**Conclusion**

**12.** Any inquiry concerning this or earlier communications should be directed Linda L. Gray at 703-308-1093, 6:30am-4:00pm, M-F. The examiner's supervisor, Richard Crispino, can be reached on 703-308-3853. Any general inquiries should be directed to the receptionist at 703-308-0661. The fax numbers are 703-305-7718 (before final) and 703-872-9311 (after final).

llg

February 24, 2003

  
LINDA GRAY  
PRIMARY EXAMINER